

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRIAN P. KELLY,

Plaintiff,

V.

P.O. ADAM STAPLETON,

P.O. THOMAS A. ROLAND and

P.O. JAMES P. GARRETT, individually,)

Defendants.

Case No. FILED: APRIL 18, 2008
08CV2237 EDA

Judge JUDGE LEFKOW

Magistrate Judge MAGISTRATE JUDGE KEYS

Jury Demand

COMPLAINT

Now Comes, the Plaintiff, Brian P. Kelly, by and through his attorneys, Gregory E. Kulis & Associates, Ltd., and complaining against the Defendants, P.O. Adam Stapleton, P.O. Thomas A. Roland and P.O. James P. Garrett, individually, as follows:

COUNT I-EXCESSIVE FORCE

1. This action is brought pursuant to the Laws of the United States Constitution, specifically, 42 U.S.C. §1983 and §1988, and the laws of the State of Illinois, to redress deprivations of the Civil Rights of the Plaintiff and accomplished by acts and/or omissions of the Defendants committed under color of law.

2. Jurisdiction is based on Title 28 U.S.C. §1343 and §1331.

3. The Plaintiff, Brian P. Kelly, at all relevant times was a United States citizen and permanent resident of the State of Illinois.

4. The Defendant, P.O. Adam Stapleton, was at all relevant times a duly appointed police officer of the City of Joliet and at all relevant times was acting under color of law as a law enforcement officer.

5. The Defendant, P.O. Thomas A. Rolland, was at all relevant times a duly appointed police officer of the Will County Sheriff's Department and at all relevant times was acting under color of law as a law enforcement officer.

6. The Defendant, P.O. James P. Garrett, was at all relevant times a duly appointed police officer of the Illinois Department of Corrections and at all relevant times was acting under color of law as a law enforcement officer.

7. On or about April 21, 2007, the Plaintiff was in the vicinity of Dupont Rd. in Seneca, Illinois.

8. The Plaintiff was having an argument with his girlfriend.

9. The Plaintiff was not committing a crime or breaking any laws.

10. Without justification, the Defendants began to strike and beat the Plaintiff.

11. The use of force was unprovoked, unnecessary and excessive.

12. The Plaintiff was injured.

13. As a result of the actions of the Defendants, the Plaintiff received medical treatment.

14. To cover up the beating, the Defendants fabricated a criminal charge against the Plaintiff.

15. Said actions and inactions of the Defendant were intentional, willful and wanton.

16. Said actions of the Defendants, P.O. Adam Stapleton, P.O. Thomas A. Roland and P.O. James P. Garrett, violated the Plaintiff's Fourth Amendment Rights and were in violation of said rights protected by 42 U.S.C. §1983.

17. As a direct and proximate consequence of said conduct of Defendants, P.O. Adam Stapleton, P.O. Thomas A. Roland and P.O. James P. Garrett, the Plaintiff, Brian P. Kelly,

suffered violations of his constitutional rights, monetary loss, fear, emotional distress, pain and suffering and future pain and suffering.

Wherefore, the Plaintiff, Brian P. Kelly, prays for judgment against the Defendants, P.O. Adam Stapleton, P.O. Thomas A. Roland and P.O. James P. Garrett, jointly and severally, in an amount in excess of Thirty Thousand and 00/100 (\$30,000.00) Dollars compensatory damages and Twenty Thousand and 00/100 (\$20,000.00) Dollars punitive damages, plus attorney's fees and costs.

COUNT II-BATTERY

1-14) The Plaintiff hereby realleges and incorporates his allegations of paragraphs 3-16 of Count I as his respective allegations of paragraphs 1-14 of Count II as though fully set forth herein.

15) The actions of the Defendants constitute battery.

Wherefore, the Plaintiff, Brian P. Kelly, prays for judgment against the Defendants, P.O. Adam Stapleton, P.O. Thomas A. Roland and P.O. James P. Garrett, jointly and severally, in an amount in excess of Thirty Thousand and 00/100 (\$30,000.00) Dollars compensatory damages and Twenty Thousand and 00/100 (\$20,000.00) Dollars punitive damages.

JURY DEMAND

The Plaintiff, Brian P. Kelly, requests a trial by jury.

Respectfully submitted,

s/Gregory E. Kulis
Gregory E. Kulis & Associates

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